

company and when they were finished, Lavery submitted a draw request to pay them and Mallegni refused to pay them even though defendant was holding the funds.

120. Both plaintiff and Lavery approached Mallegni on numerous occasions to find out when Mallegni was going to take them to Commerce Bank to obtain the construction loan. Mallegni would continuously make excuses to delay the meeting until the project was forced into bankruptcy to protect the permits.

121. Defendant Mallegni funded the DIP loan in the Bankruptcy Court and continued to delay funding the draw requests to the point where the Bankruptcy Court gave a relief of stay and allowed Mallegni and Massad to foreclose on the property.

122. In November of 2007, Defendants Mallegni and Massad auctioned 401 West first St and sold it to an entity called 401 West First St LLC, which is controlled by a Mr. David Mandara, who happens to be Massad's son in law and the LLC has an address of 171 Locke Drive, Marlboro, MA, which happens to be Defendants Mallegni and Massad's property and which houses various different businesses owned by the Defendants and serves as all of their businesses address.

123. Defendants have since filed suit against plaintiff seeking over \$8,133,692.92 on a property that the Defendants foreclosed on and sold to themselves with no consideration applied to the usuriously inflated debt. Defendants intentionally used delay and deceit tactics to force this project into a position that they could foreclose and take over. Their intentional and illegal tactics caused plaintiff and Geneva LLC to lose over \$12,000,000 in projected profits on this project alone.

**The \$675,000 First Street/Washington St Interest Loan**

124. In or around December of 2003, the Defendants were loaning funds for the

acquisition of 401 West First St, South Boston and 5168-5174 Washington St and 337 and 338 Cheriton Rd West Roxbury, Massachusetts.

125. A loan for \$675,000 was done by Defendants to cover six months of interest on these two properties. Defendants wanted to place the loan on a property located at 337-345 Main St Hyannis, Massachusetts in addition to the properties they were paying the interest on.

126. This loan was supposed to only be on the two properties that they were paying LBM the interest on, but at the closing, Mallegni and Massad demanded that the loan also be placed on the Hyannis property or they would not do the other two loans and plaintiff and partners would lose substantial money they had on deposit and at risk.

127. Defendants had promised on several occasions to remove the loan from the Hyannis property and place it where it was supposed to be but the Defendants never did. Defendants refused to remove the loan causing plaintiff not to be able to get conventional financing without the Defendants. The Defendants' refusal to remove this loan on 337-345 Main St, Hyannis allowed them to run up the interest to over \$1,800,000 to extort from the partners.

128. Defendants Mallegni, Massad and Norris have told many people in and around the Hyannis area since the inception of the very first loan that they own 337-345 Main S project and that they were going to develop the property themselves.

**The \$2,000,000 Line of Credit**

129. In February of 2004 plaintiff approached LBM seeking a \$2,000,000 line of credit to be used to fund the forward progress of all the various projects and met with Defendants to discuss the loan and go over plaintiff's proposed budget and itemized use

of proceeds. Defendants agreed to do the loan and on March 12, 2004 plaintiff and Laverty went to LBM's office in Marlboro, Ma to sign the loan documents.

130. The loan documents reflect that Laverty signed for all the guaranteeing entities as Manager, Trustee or President, and also signed individually along with Bradley as Guarantor.

131. Laverty made 2 draw requests to defendant LBM within the first 2 months at which time LBM funded those requests totaling approximately \$600,000. Laverty notified LBM that a new draw request was being sent to the Defendants and the Defendants in turn notified the Laverty that there was only \$200,000 left in the line of credit and that the Defendants were keeping that for debt service. Laverty and Plaintiff were both perplexed and outraged.

132. Plaintiff and Laverty called Mallegni and Norris to find out what had happened to the rest of the money and the Defendants said that it had been disbursed. Plaintiff and Laverty asked the Defendants to show them where the money had gone and the Defendants showed them copies of checks made out to a Kirsten Corp and to KBF Sales. Plaintiff and Laverty were completely outraged and demanded to see the draw requests and documentation showing who authorized the Defendants to disburse those funds to two unrelated and unauthorized entities without Laverty's consent. Plaintiff and Laverty demanded that the Defendants produce every bit of evidence to exhibit how the Defendants could possibly have misappropriated \$900,000 of funds that belonged in their line of credit to finish these projects.

133. Plaintiff still has not seen this documentation four years later even though there has been countless requests made by plaintiff, Laverty and numerous lawyers on

their behalf. Defendants were re- paid approximately \$1,500,000 from the sales of Condominiums at 320 West 3<sup>rd</sup> St., Boston, MA towards this line of credit. Defendant LBM has since sent a demand notice seeking an additional \$1,106,598.38 on a loan that was over paid by approximately \$600,000.

134. The Defendants have never produced any written authorizations from the only authorized agent, Laverty, instructing defendant LBM to release any funds to any entity except for the first two draw requests totaling \$600,000.

135. Defendant LBM's release of these funds to unauthorized entities caused irreparable harm to all the projects that the funds were meant to help move through different stages of development. The financial loss due to this totaled in the tens of millions of lost profit to plaintiff.

#### **The \$3,630,000 SOS Loan**

136. On or about October of 2003 Plaintiff approached defendant LBM for a loan on 5168-5174 Washington St West Roxbury, Mass and Lots 337and 338 Cheriton Road, West Roxbury, MA, a 48 unit condo development comprised of two 24 unit buildings for a Laverty controlled entity called SOS Realty, LLC that plaintiff was a Guarantor and was to receive 25% of the project.

137. LBM agreed to finance the project and was going to take plaintiff to Commerce Bank but later said that the plaintiff had too many loans out or "in the pipe line." The Defendants said they would take us to Framingham Cooperative Bank to get a construction loan, and that Defendants Mallegni and Massad ran that Bank. Mallegni took plaintiff to see Larry Erickson at Framingham Cooperative Bank and they agreed to do the loan if defendant LBM left in equity. LBM cross collateralized this loan with

many other projects effectively tying plaintiff and his partner's hands and putting all projects at risk.

138. Framingham Cooperative Bank closed the loan and paid down LBM's loan down to \$1,700,000. Instead of discharging the original \$3,630,000 LBM loan and replacing it with a new \$1,700,000 loan, they just subordinated to Framingham Cooperative Bank. Plaintiff asked defendant Mallegni why the Defendants did not do a new loan and Mallegni stated that Massad did not want to. Defendant's Attorney, Norris, had nothing to do with drawing up any of the loan documents between Framingham Cooperative and SOS Realty LLC and played no role in the transaction but still charged SOS on the HUD Statement \$20, 000. Plaintiff asked Norris why he was the charging plaintiff for doing nothing, and Norris said if the plaintiff did not agree, that Norris said he would make sure the loan would not close.

139. Construction began and 17 units sold quickly. The Framingham Coop loan was a revolving line and reached its limit and could not begin to fund again until plaintiff closed units and paid down the loan.

140. Laverty approached Framingham Cooperative and asked if they could modify the loan or allow SOS to seek secondary financing in the form of a \$500,000 revolving line of credit that would be paid down from the draw requests.

141. Plaintiff had approached some lenders that were willing to do a line of credit at 12% and 2 points but Framingham Cooperative insisted plaintiff to get the loan from LBM at 16% and 4 points.

142. SOS closed the loan with LBM and started closing units, the proceeds of the sales went to pay down Framingham Cooperative and LBM.

143. Defendant LBM was to receive an exit fee of \$5,000 per unit to be paid at Closing. When the units started to close, Norris demanded that the \$5,000 checks be made out directly to Mallegni and not to LBM. When plaintiff asked Norris why the checks needed to be made out to Mallegni, Norris stated that Mallegni had to cash the checks so he could give Massad his 50% in cash.

144. SOS started to draw on the \$500,000 LBM line of credit and was paying it back through the construction draws that Framingham would pay directly to LBM. Within weeks, LBM stopped advancing funds on the line of credit and started to keep all the draws. When plaintiff asked Mallegni what was going on, he said Massad wanted the line paid off even if it meant the project would come to a complete stop.

145. With the line of credit stopped and Framingham Cooperative not funding due to being at the revolving line of credit limit, the project stopped. Framingham Cooperative was going to foreclose on the project and SOS spoke to some lawyers about a possible bankruptcy filing.

146. Mallegni and Massad heard that plaintiff and his partners were thinking about filing bankruptcy and called plaintiff. Defendants wanted plaintiff to let Framingham Cooperative foreclose and said that Defendants Mallegni and Massad would buy it back at the auction so that they could save millions by wiping out all unsecured creditors and that they would give it back to plaintiff and Lavery to finish.

147. Plaintiff told Defendants that plaintiff and Lavery would not go along with Defendants plan and that plaintiff believed it was illegal. SOS filed Bankruptcy the next day. Defendants Mallegni and Massad went crazy and said that they would destroy the plaintiff any way they could. On numerous occasions, Mallegni made it very clear to

plaintiff that he “was (expletive) with the wrong guys” and “if you ever want to see your family alive again, you better not file Bankruptcy, you have no idea who you’re (expletive) with!”

148. LBM followed the SOS filing into the Bankruptcy Court and supplied the DIP funding under the condition that Laverty resign as manager and turn all SOS’s interest over to attorney Dimento. Mallegni insisted on a contractor, Lacourse Construction that supplied a contract to finish the project at 20% less than any other contractor. LBM and Mallegni told the Court that Lacourse Construction had nothing to do with the Defendants and Mallegni had nothing to do with the bid. Ken Lacourse has since stated in court documents that Defendants Mallegni and Massad told him the price to come in at so he could get approved by the Bankruptcy Court. Lacourse Construction offices were located in defendant Mallegni and defendant Massad’s office building at 171 Locke Drive in Marlboro, MA just 100 feet away from LBM’s offices. Ken Lacourse has stated that 90% of Lacourse’s work was for Mallegni. Due to LBM’s delays in funding Lacourse Construction’s draw requests, the project was forced to come to a stop and also forced Lacourse into Bankruptcy. Ken Lacourse has since given testimony that Mallegni and Massad have instructed him on numerous occasions to stop all construction on various projects they have loans on and to attach liens for payments due whether he was owed any monies or not. Lacourse has since given further testimony wherein he states that Mallegni told him that the real way the Defendants make their money is not in making the initial loans to developers, but rather in the default rates and points on these loans or ultimately in foreclosing on them and taking them over. Defendants made it very clear to Lacourse that if he did not assist in disturbing plaintiff’s projects, he would

not get paid on any of the many invoices on projects he was working on for the Defendants and they would put him out of business, which ultimately they did. Lacourse was forced to file bankruptcy and has gone out of business.

150. Mallegni and Massad's action's from day one has caused extreme harm to this project and prohibited it from being a successful and profitable deal. Instead of making \$7,000,000 the project went into bankruptcy and was eventually foreclosed on because of Defendants not funding the DIP loan in a timely manner.

#### **The McManus/Related Entities Fraudulent Schemes**

151. Defendant McManus is an individual with deep ties to the other named Defendants, particularly Massad, Mallegni and Norris. McManus over the last 10 years has owned and operated numerous entities in the design/build fields, including but not limited to, Everest Construction, MKM Site Development, and South Water Construction.

152. McManus formed a construction company called MKM Site Development Corp. on May 13, 2002. Defendants said the name stood for "Marcello/Kevin/Michael". Articles of Organization for the corporation obtained from the Secretary of State's Office confirm that the Directors of the corporation are Defendants Mallegni, McManus and Norris.

153. Upon information and belief, McManus has defaulted on millions of dollars of loans to the other Defendants, particularly Massad and Mallegni. Upon information and belief, McManus has been under financial duress to Massad and Mallegni for at least the past five years and according to Defendants Massad and Mallegni "McManus will do anything we tell him to."

154. When Defendants Mallegni, Norris, Massad and LBM entered into a loan arrangement and business partnership with plaintiff on the Moors / Provincetown loan, Defendants failed to disclose to the plaintiff the debtor-lender relationships with McManus, the numerous defaults and problems they had with McManus or the partnership and/or business relationships between the Defendants and McManus. Defendants failed to disclose such conflicts of interest to plaintiff.

155. Mallegni forced himself as Manager of the Moors project. He then insisted on hiring defendant Everest to construct the project and Mallegni signed a contract with McManus. To start the project, McManus subcontracted all the initial site and utility work to MKM, owned by McManus, Mallegni and Norris, with “inspections” for all draw requests for payment to be done by Mallegni and Norris. From the onset, all site work performed by MKM was all done at the wrong grade and was done so poorly that all the work had to be completely re-done four times. The work done by MKM set the project back months, missing a prime selling season, causing grave concern in a very closely knit marketplace and causing the loan to go into default.

156. Regardless of the constant objection of plaintiff to MKM/Everest’s hiring and complete inability to perform the work as outlined in their contract, Mallegni and Norris, (who were acting as Lenders, Developers, Contractors, Legal Council and Inspectors all at the same time), refused to take any corrective measures to remedy the situation.

157. Upon information and belief, McManus and Mallegni/Norris conspired to defraud plaintiff by over paying McManus for work that was either never performed or so poorly performed that payment should have been withheld until completed correctly.

158. Upon information and belief, McManus/Mallegni/Massad and Norris conspired to defraud plaintiff by misappropriating funds from the Moors project to pay off other McManus financial obligations to Massad/Mallegni.

159. Upon information and belief from numerous third parties, this pattern of behavior was commonplace between McManus and Massad/Mallegni and Norris on most all jobs McManus and the various entities he controlled worked on.

160. Despite repeated and constant requests from plaintiff to fire McManus, Defendants refused to take action. After the project had been blatantly delayed to the point where it had been destroyed in the marketplace and stripped of all potential profits, plaintiff demanded the partnership sue McManus for damages. Plaintiff and partner, Attorney DiMento, vigorously pressured Mallegni/Norris to commence legal action to go after both McManus and his insurance company for specific performance. Mallegni/Norris conceded and promised they would aggressively pursue and take the lead on suing both McManus and his insurance company. After countless demands by plaintiff/DiMento for Mallegni/Norris to do the same, no action has ever been brought against McManus or his insurance company causing great financial loss to plaintiff.

161. Upon information and belief, McManus/Mallegni/Massad/Norris conspired to defraud plaintiff and force the Moors project/financing to go into default so that Defendants could accelerate the default rate of interest, points and late fees to strip the project of any and all profits plaintiff could make from a properly run project.

162. All of these actions of conspiracy and fraud, coupled with the blatant inactions to remedy the situation have caused irreparable harm and great financial loss to plaintiff.

163. McManus on numerous occasions requested or sent fraudulent invoices for payment by telephone, telefax or by the United States Postal Service.

164. Upon information and belief, McManus still operates in various capacities for Mallegni and Massad and quietly maintains an office at 171 Locke Drive, Marlborough, MA, which is owned by Defendants Mallegni/Norris/Massad and which is the business address of the various Defendants' enterprise.

#### **The Hibel Realty LLC Loan**

165. In late 2002 plaintiff, along with Bernard Laverty, purchased 337-339 Main St, Hyannis MA for \$1,050,000. Plaintiff started the permitting process with the Town of Hyannis to build a 15,000 sq ft commercial building with 22 luxury condominium's above.

166. In 2003 Defendants Mallegni and Massad loved the project and wanted to use it as additional collateral for a loan on SOS Realty in West Roxbury, MA and 401 West First St in Boston, MA in the amount of \$675,000.

167. In 2006 the holders of the mortgages on 337-339 Main St wanted to be taken out of the deal and plaintiff approached Defendants about doing a loan that would take out the currant mortgages, fund the continuing permitting process and pay the interest going forward.

168. Plaintiff entered into a loan on March 20th, 2006 for \$1,330,000 which included paying off the existing mortgage, fund the on going permitting, have an interest reserve and pay closing costs.

169. Defendants Mallegni and LBM constantly delayed in paying draw requests to the engineers and architects, causing the plaintiff delays in getting permitted.

Defendants had agreed to arrange the construction financing through Commerce Bank. Mallegni did notify plaintiff that he had obtained the financing but the plaintiff would have to give up 25% of the project to the Defendants. Plaintiff refused to give up the 25% and Defendants refused to close the loan.

170. Plaintiff again went to Mallegni to obtain additional financing to complete the permitting process because plaintiff was unable to get other financing due to the \$675,000 cross collateralized loan from 401 First St, Boston and Washington St, West Roxbury projects that Defendants forced on plaintiff and that did not belong there in the first place.

171. Defendants Mallegni and Massad were demanding over \$1,800,000 in principal and interest for the \$675,000 loan that was unanimously acknowledged by every single party involved that that \$675,000 debt was the sole responsibility of Frank Fraine as per an extremely complicated and bitter settlement agreement blessed by all parties wherein Bradley and Laverty were to separate themselves from Fraine and where they would be responsible for certain debts and Fraine for others. The Defendants would not subordinate to any other financing, thus making it impossible for plaintiff to borrow from any number of interested lenders and setting the stage for the Defendants to foreclose and take the project.

172. In February of 2007 plaintiff entered into a loan arrangement with Defendants. The Defendants placed a \$3,530,000 loan on 337-339 Main St Hyannis that paid off the first LBM loan and left a reserve for one year of interest and enough money to finish the permitting. Once again, at the last possible moment before the loan went into default, the Defendants also demanded that the \$675,000 Fraine loan which was now

over \$1,800,000 would be added on or they would not do the loan and foreclose. Bradley and DiMento argued for two straight days with Mallegni and Norris to no avail.

173. Defendants Mallegni and Massad also demanded that Lavery resign as manager and turn over his interest in the project to Dimento. Plaintiff had no choice but to agree or they were going to immediately begin foreclosure on the project.

174. Defendants Mallegni and Norris would show up at town meetings and at the architects meetings telling everybody that the project was theirs. The Defendants still delayed in paying the architects and engineers to the point that they were going to sue plaintiff for non payment.

175. Defendants contacted Dimento and again said that they had obtained commitments for construction funds but wanted 25% of the project.

176. Defendants have constantly over the years delayed in making payments to the architects and engineers causing long delays in the permitting of the project, they also used the delayed funding to run up the interest and to put the various projects into a position that they strip all profits out or foreclose and take over. The damage the Defendants have caused the plaintiff and his partners in the professional, trades and business community is unconscionable.

177. Defendants are now in the process of trying to foreclose on the property and have caused plaintiff to lose expected profits of \$6,000,000 on this project alone.

178. Consistently throughout all the loan transactions described above, Defendants sent via the UNITED STATES POSTAL SERVICE seeking or demanding the payment of loans at fraudulently inflated amounts or at usurious rates in violation of 18 U.S.C. § 1341.

179. Consistently throughout all the loan transactions described herein, Defendants demanded by telephone or sent via telefax correspondence seeking the payment of loans at fraudulently inflated amounts or at usurious rates, including HUD Statements that reflect fraudulent charges in violation of 18 U.S.C. 1343.

**Default Interest and Late Fees are Punitive  
and Must Be Voided As Unenforceable Penalties**

180. At present, there is a pending Memorandum Of Law in a case involving the Defendants known as 219 Forest Street, LLC, et al v. LBM Financial, LLC, et al which argues the above referenced claim in great detail. Plaintiff makes the same claims contained therein, of which salient facts include; where the default interest rate is disproportionate to any anticipated costs or damages that the lenders anticipates incurring ,it is unenforceable as a penalty.

181. In sum, an enforceable default interest provision must be based upon some anticipated costs or damages that would be incurred by a lender when the borrower fails to pay the loan when due. The default rate and late fees in the notes therefore cannot be reasonably related to any anticipated costs or damages arising from borrowers failure to pay and must be disallowed as a matter of law.

182. The cost of funding for the loans was not a factor in establishing default rates by the Defendants .In many cases the Defendants sourced funds for a loan from “investors”. These investors entered into participation agreements with Defendants. Under the participation Agreements, Defendants liability to the investors is limited to the investors’ respective interests in each note. The Participation Agreements do not require the Defendants to make payments to the investors in the event of default under the Notes.

183. The Participation agreements provide, in part, as follows:

The Investor shall receive interest payments based upon their respective percentage of participation in each loan when collected from the borrower... In the event of a default, foreclosure or payment of less than the amount advanced by the Investor, the Investor shall be repaid in proportion to their investment.

184. Under the Participation Agreements, Defendants cost of funds and there is no maturity date for the repayment of investors. The Participation Agreements do not contain a fixed schedule of payments that must be made to the investors by the Defendants. ID. Instead, Defendants are only obligated to remit to the investors what it is paid on account of the Notes.

185. Defendants obligations to the Investors under the Participation agreements, therefore, do not increase if the borrower fails to make payment under the notes when due. Defendants cost of funds does not support the default interest rate and late fees under the notes.

186. Compound interest, or interest upon interest, is generally disallowed in Massachusetts. Compound interest is regularly disallowed as a matter of policy even if the compound interest is assessed pursuant to a contractual obligation. There is no plausible equitable basis on which Defendants could recover compound interest and late fees under the Notes and it is unenforceable.

**COUNT I: CIVIL RICO (18 U.S.C. §1961 et seq.)**  
**(ALL DEFENDANTS)**

187. The plaintiff repeats and reiterates each and every allegation set forth in paragraphs 1-186 above and incorporates such allegations into this count.

188. At all pertinent times, the Defendants combined to form an “enterprise” as

that term is defined at 18 U.S.C. §1961(4) (“the Massad/Mallegni Enterprise”). Each of the Defendants were members and associates of the Massad/Mallegni Enterprise that were engaged in fraudulent real estate transactions, and the procurement of fraudulent financing for such transactions through mail fraud, bank fraud, bankruptcy fraud, loan sharking, obstruction of justice and extortion. The Massad/Mallegni Enterprise utilized its connection to legitimate banking institutions to enrich its individual members. At all pertinent times the Massad/Mallegni Enterprise was an organized crime group that operated in central Massachusetts and at all pertinent times, it constituted continuing unit for the common purpose of achieving the enterprise’s objectives.

189. At all pertinent times the Massad /Mallegni Enterprise was engaged in interstate commerce.

190. The Massad/Mallegni Enterprise is a group of individuals and corporations associated in fact, although it is not a legal entity. The means and methods utilized to conduct its organized crime activity included a pattern of extortion, threats, intimidation, obstruction of justice, economic duress, and coerced refinancing which had the effect of fraudulently transforming conforming loans into usurious ones. The unlawful actions of the Defendants occurred on a continuing basis from at least 2002 to the present and incorporated the use of the United States Postal Service seeking or demanding the payment of these loans at fraudulently inflated amounts or at usurious rates. The Defendants have conspired to defraud and extract large sums of money from the plaintiff by engaging in the pattern of activity that consists of numerous crimes as set forth below.

191. The purpose of the enterprise was as follows:

- a. to enrich its members; and
- b. to preserve, protect, and augment its financial power and leverage in Massachusetts.

192. Among the means and methods employed by the members and associates of the Massad/Mallegni Enterprise in the conduct of the enterprise were the following:

- a. members and associates conspired, committed and attempted to commit mail fraud and bank fraud through control of numerous lending institutions and companies involved in real estate transactions;
- b. members and associates engaged in extortionate acts to enrich its members;
- c. members and associates obstructed and attempted to obstruct justice to prevent victims of the Massad/Mallegni Enterprise from seeking redress in the courts.

193. The individual members of the Massad/Mallegni Enterprise would cause the corporate members to write loans to the plaintiff and others. When the loans were about to come due, the Defendants promised to extend these loans on the same or similar terms, lulling the plaintiff into a sense of false security. At, or immediately prior to the loan closings, the Defendants then demanded: (1) additional and unexpected points and finance charges to make the loans; (2) increased payoff amounts, sometimes in the hundreds of thousands or millions of dollars; (3) that closing documents be signed immediately at said closings or that the notes will be called and the mortgages foreclosed, (4) cash payments to offset alleged debts entirely unrelated to the loans at issue. Finally, Defendants Mallegni and Massad demanded an equity interest in projects as a last-minute condition of closing. The Defendants' apparent intent throughout the history of said loans was to profit unlawfully from said loans by purposefully hindering and delaying the plaintiffs' efforts to pay off their loans so the Defendants' could charge fraudulently

inflated “default interest” and fees and/or to utilize foreclosure proceedings and the threat of foreclosure proceedings to take the plaintiff’s properties for less than market value. In the words of defendant Mallegni from testimony taken from one of his main contractor’s, Ken Lacourse, “that’s how we really make our money, default interest, late fees and points.”

194. In at least one instance, in or around April 2004, some or all of the Defendants extorted a debt from the Plaintiff that was statutorily usurious, in violation of G.L. c. 271 §49 and 18 U.S.C. §1961(6). Specifically, the debt (Harbor Bluff house) was in the amount of \$418,000 of which all was “default interest” and some or all of the Defendants did extort a mortgage on 655 East Second St, Boston, Mass from the plaintiff and did in fact receive \$750,000 from the plaintiff out of a \$2,432,000 mortgage dated January 27, 2006.

**COUNT II: CIVIL RICO CONSPIRACY (18 U.S.C. §§1962(d), 1964(c))**  
**(ALL DEFENDANTS)**

195. The plaintiff repeats and reiterates each and every allegation set forth above in paragraphs 1 thru 194 and incorporates such allegations into this count.

196. The members of the Massad/Mallegni Enterprise, as above defined, did unlawfully agree and conspire together to perform the illegal acts set forth above in violation of 18 U.S.C. §1962(d).

197. Their conduct constituted an ongoing criminal conspiracy.

198. Said RICO conspiracy caused great damage to the plaintiff, including, but not limited to losses in excess of approximately \$150,000,000.

**COUNT III: BREACH OF CONTRACT**  
**(LENDER DEFENDANTS)**

199. The plaintiff repeats and reiterates each and every allegation set forth above in paragraphs 1 thru 198 and incorporates such allegations into this count.

200. The Lender Defendants and the plaintiff entered into binding contracts.

201. By its conduct set forth above, the defendant breached said contract without excuse or right.

202. Said breach of contract caused great damage to the plaintiffs, including, but not limited to economic losses.

**COUNT IV: INTENTIONAL INTERFERENCE WITH**  
**CONTRACTUAL RELATIONS**  
**(ALL DEFENDANTS)**

203. The plaintiff repeats and reiterates each and every allegation set forth above in paragraphs 1 thru 202 and incorporates such allegations into this count.

204. The Defendants were aware of the express contracts between the Lender Defendants and Bradley.

205. The Defendants interfered with the express contracts between the Lender Defendants and Bradley, and induced and caused the Lender Defendants to breach their respective contracts with Bradley. Said wrongful interference was without right or justification.

206. Said tortuous and wrongful interference caused the plaintiffs to suffer great damage including, but not limited to, economic loss.

**COUNT V: TORTUOUS INTERFERENCE WITH BUSINESS RELATIONS**  
**(ALL DEFENDANTS)**

207. Plaintiff re-alleges paragraphs 1 thru 206 as if expressly restated herein.

208. Defendants' conduct, including their bad faith failure and refusal to fund the loans and disburse funds to various contractors, caused delays in the projects.

209. Defendants' conduct harmed the business relationships Plaintiff had with others.

210. Defendants harmed or destroyed working relationships between plaintiff and certain contractors, causing some to walk off the jobs adding substantially to the costs of the projects and as a result plaintiff was harmed.

211. Said tortuous and wrongful interference caused the plaintiffs to suffer great damage including, but not limited to, economic loss.

**COUNT VI: INTENTIONAL MISREPRESENTATION**  
**(ALL DEFENDANTS)**

212. Plaintiff re-alleges paragraphs 1 thru 211 as if expressly restated herein.

213. Defendants intentionally misrepresented their intentions and/or ability to fund all the projects, misrepresented their intentions to continue with the projects even after putting the loans in default without notifying plaintiff and made numerous other misrepresentations on which plaintiff relied.

214. As a result of defendant's misrepresentations, plaintiff was harmed.

**COUNT VII: FRAUDULANT ACCOUNTING**  
**(ALL DEFENDANTS)**

215. Plaintiff re-alleges paragraphs 1 thru 214 as if expressly restated herein.

216. Defendants provided plaintiff with pay-off figures for notes that reflect fraudulent accounting, including but not limited to failing to account for payments made from sales, disbursing funds to themselves or 3<sup>rd</sup> parties not authorized or known to plaintiff and charging such disbursements to plaintiffs loans, charging unauthorized and

or improper fees, interest and penalties and specifically disbursing funds from the \$2,000,000 line of credit to unauthorized parties and charging these sums to plaintiff.

217. As the result of the defendant's fraudulent accounting, plaintiff was harmed.

**COUNT VIII: UNJUST ENRICHMENT**  
**(ALL DEFENDANTS)**

218. Plaintiff re-alleges paragraphs 1 thru 217 as if expressly restated herein.

219. The Defendants collected monies from plaintiff that were not properly due and owing and as a result they have been unjustly enriched and plaintiff was harmed

**COUNT IX: EXTORTION**  
**(ALL DEFENDANTS)**

220. Plaintiff re-alleges paragraphs 1 thru 219 as if expressly herein.

221. Defendants extorted monies from plaintiff in the form of loan pay-offs by charging excessive fees and amounts, cash payments, equity interests knowing that plaintiff would have to pay such amounts in order to obtain subsequent financing or his projects back and implied threatening to interfere with the projects unless such amounts.

222. As a result of Defendants extortion plaintiff was harmed.

**COUNT X: DEFAMATION**  
**(DEFENDANTS MALLEGNI and NORRIS)**

223. Plaintiff re-alleges paragraphs 1 thru 222 as if expressly herein.

224. At all relevant times relevant, Defendants Mallegni and Norris repeatedly interfered with plaintiff's ability to conduct his normal due course of business by attacking his character and making false and misleading statements about plaintiff to others including parties within the financial, professional, business and governing communities.

225. As a result of defendant's defamation of character, plaintiff was harmed.

**COUNT XI: BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND  
FAIR DEALING  
(ALL DEFENDANTS)**

226. The plaintiff repeats and reiterates each and every allegation set forth above in paragraphs 1 thru 225 and incorporate such allegations into this count.

227. The Lender Defendants and plaintiff entered into a binding contracts which contract included an implied covenant of good faith and fair dealing.

228. By its conduct set forth above, the defendant breached said contract without excuse or right.

229. Said breach of contract caused great damage to the plaintiff, including, but not limited to economic losses.

**COUNT XII: RECHARACTERIZATION  
(LBM & WOLFPEN)**

230. The plaintiff repeats and reiterates each and every allegation set forth in paragraphs 1 thru 229 and incorporates such allegations into this count.

231. The LBM/655 Note should be re-characterized as equity.

232. Development of the 655 East 2<sup>nd</sup> Street Property was a joint venture between Mallegni and the other shareholders of 655 Corp. Mallegni, the Managing Member of LBM, was an insider of 655 Corp. when the LBM/655 was issued. He was a shareholder and effectively controlled 655 Corp. as Trustee of the Voting Trust. Mallegni maintains control over 655 Corp. through the present time.

233. General Bank, an outside lender, was unwilling to make a construction loan to 655 Corp. without the infusion of \$1,200,000 in equity.

234. LBM and 655 Corp. executed loan documents on May 9, 2003 but no

actual loan was made, nor were any funds advanced.

235. The LBM/655 Note was not treated as a loan either by LBM OR 655 Corp.

236. The LBM/655 Note had payment provisions, but 655 Corp. never made any payments on the LBM/655 Note.

237. Even though the development and sale of the 655 East 2<sup>nd</sup> Street Property would take several years, the LBM/655 Note had a term of only four months.

238. LBM continued to loan money to 655 and its related entities long after the LBM/655 Note was in default.

239. Accordingly, the LBM claim that it was ever owed this money should be voided to the extent that it relied upon the LBM/655 Note and/or the LBM Mortgage.

**COUNT XIII: VIOLATION OF M.G.L.c.93A §11**  
**(ALL DEFENDANTS)**

240. The plaintiff repeats and reiterates each and every allegation set forth above in paragraphs 1 thru 239 and incorporates such allegations into this count.

241. At all times relevant hereto, the business of the Defendants was to engage in investment in and the ownership and development of real estate and the interests therein.

242. Defendants actions and in-actions as described in this complaint were unfair and deceptive within the meaning of M.G.L. c. 93A §11 and specifically, plaintiff relies on the misrepresentations, fraud / bait and switch, fraudulent accounting, interference with business relations, extortion, unjust enrichment, failure to provide information or notice, method and manner in which all Defendants attempted to collect a civil debt, and usury as described in this complaint as the basis of his claim that

Defendants' action were unfair and deceptive.

243. Plaintiff relied on Defendants' unfair and deceptive acts, and, as a result, Plaintiff has been harmed. Plaintiff has suffered in business, in his personal and professional reputation, and emotionally.

**COUNT XIV: UNFAIR AND DECEPTIVE PRACTICES IN VIOLATION OF G.L. C.93A SEC. 11 – (ALL DEFENDANTS)**

244. The plaintiff repeats and reiterates each and every allegation set forth above in paragraphs 1 thru 243 and incorporates such allegations into this count.

245. The defendants each do business within the Commonwealth of Massachusetts

246. The manner and means described above in which all defendants attempted to collect a civil debt were unfair and deceptive as defined in G.L. c. 93A §11.

247. As a result of the Defendants' unfair and deceptive collection practices, the Plaintiffs suffered in business, in their personal and professional reputations, suffered emotional distress and were otherwise damaged, including, but not limited to losses in excess of approximately **\$150 MILLION**.

**COUNT XV: WRONGFUL ACCURAL OF INTEREST**  
**(ALL DEFENDANTS)**

248. Plaintiff re-alleges paragraphs 1 thru 247 as if expressly restated herein.

249. The bad faith actions and in-actions of LBM as outlined above caused significant delay in the projects while at all times interest was accruing, including, default interest and fees.

250. Plaintiff requests and demands that all interest on notes be voided through Count1, which accrued from 2001 to present, be declared improper and wrongful and refunded to plaintiff.

**COUNT XVI: BAIT AND SWITCH**  
**(ALL DEFENDANTS)**

251. Plaintiff re-alleges paragraphs 1 thru 250 as if expressly restated herein.

252. Defendants engaged in a bait and switch and fraudulently induced plaintiff to execute notes and associated mortgages by agreeing to fund the projects, claiming they would fund and disburse in a manner which would allow the projects to go forward and otherwise deal fairly and in good faith with plaintiff.

253. As the result of defendant's fraud/bait and switch, plaintiff was harmed.

**COUNT XVII: MAIL AND WIRE FRAUD**  
**(ALL DEFENDANTS)**

254. The plaintiff repeats and reiterates each and every allegation set forth in paragraphs 1 thru 251 and incorporates such allegations into this count.

255. Consistently throughout all the loan transactions described herein, defendants sent via the UNITED STATES POSTAL SERVICE seeking or demanding the payment of loans at fraudulently inflated amounts or at usurious rates in violation of 18 U.S.C. 1341.

256. Consistently throughout all the loan transactions described herein, defendants demanded by telephone or sent via telefax correspondence seeking the payment of loans at fraudulently inflated amounts or at usurious rates, including HUD Statements that reflect fraudulent charges in violation of 18 U.S.C. 1343.

**COUNT XVIII: FAILURE OF CONSIDERATION**  
**(LBM AND WOLFEN)**

257. The plaintiff repeats and reiterates each and every allegation set forth in paragraphs 1 thru 256 and incorporates such allegations into this count.

258. The Hibel Realty LLC \$675,000 loan and the underlying LBM mortgage on the Hibel property fail for lack of consideration. Absent consideration the Hibel Realty LLC \$675,000 loan and the LBM mortgage are void or voidable. Accordingly, the LBM claim should be disallowed to the extent that it relies upon the LMB/Hibel Realty LLC and/or the LBM mortgage. Accordingly all monies paid (\$1,500,000) should be returned with interest.

**COUNT XIX: FAILURE OF CONSIDERATION**  
**(LBM AND WOLFEN)**

259. The plaintiff repeats and reiterates each and every allegation set forth in paragraphs 1 thru 258 and incorporates such allegations into this count.

260. The \$2 Million Line of Credit of which only \$600,000 was advanced to 655 Corp and paid back \$1,400,000 the underlying LBM mortgage on the All the properties fail for lack of consideration. Absent consideration the \$2 Million Line Of Credit and All the LBM mortgages are void or voidable. Accordingly, the LBM claim should be disallowed to the extent that it relies upon the LMB/2 Million Line Of Credit and/or the LBM mortgage. Accordingly all monies excess of the \$600,000 should be returned with interest.

**COUNT XX: FAILURE OF CONSIDERATION**  
**(LBM AND WOLFEN)**

261. The plaintiff repeats and reiterates each and every allegation set forth in paragraphs 1 thru 260 and incorporates such allegations into this count.

262. The 1287 Old Post Road of \$940,000 Loan of which no money was ever given and the underlying LBM mortgage on the 1287 Old Post Road property fail for lack of consideration. Absent consideration the 1287 Old Post Road loan and the LBM mortgage are void or voidable. Accordingly, the LBM claim should be disallowed to the extent that it relies upon the LMB/1287 Old Post Road and/or the LBM mortgage.

**COUNT XXI: FAILURE OF CONSIDERATION**

263. The plaintiff repeats and reiterates each and every allegation set forth in paragraphs 1 thru 262 and incorporates such allegations into this count.

264. The \$418,000 655 Corp loan and the underlying LBM mortgage on the 655 Corp property fail for lack of consideration. Absent consideration the 655 Corp \$418,000 loan and the LBM mortgage are void or voidable. Accordingly, the LBM claim should be disallowed to the extent that it relies upon the LMB/655 Corp and/or the LBM mortgage. Accordingly the \$767,000 monies used to pay down/or off this loan should be returned with interest.

**COUNT XXII: FAILURE OF CONSIDERATION**  
**(LBM AND WOLFPEN)**

265. The plaintiff repeats and reiterates each and every allegation set forth in paragraphs 1 thru 264 and incorporates such allegations into this count.

266. The SOS Realty LLC \$240,000 loan and the underlying LBM mortgage on the SOS Realty LLC property fail for lack of consideration. Absent consideration the SOS Realty LLC \$240,000 loan and the LBM mortgage are void or voidable. Accordingly, the LBM claim should be disallowed to the extent that it relies upon the LMB/SOS Realty LLC and/or the LBM mortgage. Accordingly any and all monies(\$85,000) used to pay off/or down should be returned with interest.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff prays for the following relief:.

- a. Pursuant to Fed.R.Civ.P.65 (b), issue a preliminary injunction enjoining said defendants from selling, transferring, alienating, hypothecating, conveying or foreclosing or otherwise obtaining any equitable interest in the properties identified in this complaint known as Hibel property, 401 West 1<sup>st</sup> Street property, 156 Harbor Bluff Road, The Moors / Provincetown, 415 Main Street, Hyannis, MA, 4 Whale Road, 655 Corp property, the 2.2 acre parcel on Robin Hill Road and Washington St property and from pursuing any remedies on the personal guarantees given to the defendants.
- b. Rescind any and all contracts and /or agreements to which the plaintiff or any of the plaintiffs assets has been fraudulently induced, or in the alternative to reform any such agreements or instruments.
- c. Order the defendants jointly or severally to pay all compensatory damages in the greatest amount approved by law or evidence.
- d. Assess against each defendant the greatest amount of special, exemplary or punitive damages as are supported by law or evidence, including but not limited to such double or treble damages assessed in accord with the terms of 18 U.S.C. §1964(c) and M.G.L.c.93a.
- e. Assess against each defendant interest, costs and attorney fees to the greatest extent permitted by law.
- f. Assess against each defendant such relief as is meted and just.

- g. Grant an attachment on all defendants assets for the purpose of securing that any monies awarded plaintiff by the jury in this case is not devalued by any of the defendants liquidating and the transferring and hiding of assets. By reason thereof, pursuant to G.L.c 214, 3(8), plaintiff is entitled to reach and apply such real estate, now standing in the names of all named defendants, to satisfy any judgment entered in this action in favor of plaintiff against defendants.
- h. Require that the defendants post a bond or pay into this Court an amount sufficient enough to cover any potential damages awarded by a Jury Trial in this case of One Hundred Fifty Million Dollars (\$150,000,000.00). The defendants have numerous other pending cases that could potentially be awarded in excess of Three Hundred Million Dollars (\$300,000,000.00) based on the potential damages arising out of their claims.

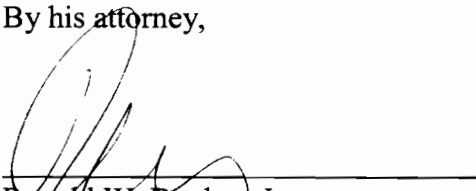
**JURY DEMAND**

The plaintiff respectfully requests a trial by jury to the greatest extent allowed by law.

The Plaintiff,

ROBERT M. BRADLEY,

By his attorney,



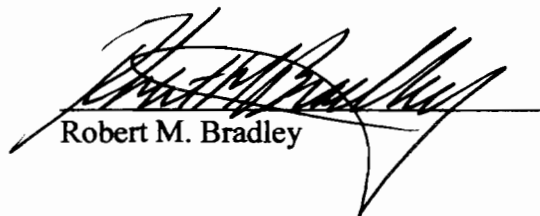
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VERIFICATION

I, Robert M. Bradley, hereby state that I have read the foregoing Verified Complaint and Demand for Jury Trial and the facts set forth therein are true and accurate to the best of our knowledge, information, and belief.

SIGNED UNDER THE PENALTIES OF PERJURY THIS 1<sup>ST</sup> DAY OF JULY 2008.

  
Robert M. Bradley